

Appl. No. 09/655,223

Amendment dated November 17, 2003

Response to Office Action of May 19, 2003 (Paper No. 10)

Remarks

Claims 21-23 and 25 have been objected to as incomplete. These claims have been canceled and accordingly the objection is moot.

The specification has been objected to because the Examiner states that the Applicant's problem and solution is not clear. Applicants have amended the specification to address this objection. No new matter is contained therein. The amended specification points out more distinctly that the gas removal process takes place by putting the liquid element in a container which is then placed in the cavity of the vacuum packer. As is discussed in the specification at page 4, lines 15-20, this container has a volume at least about twice that of the liquid element, and preferably greater. Thus any spraying will be prevented from escaping the container. The sequential steps of gas removal in the container within the vacuum packer as described above, and the subsequent removal of the liquid element and its combination with the solid element in a separate container, are described in the specification at pages 4, 5, and 6.

Claim 1 has been canceled and it is submitted that the objection thereto is moot.

Claim 24 has been rejected under 35 U.S.C. 112, second paragraph. This claim has been canceled and accordingly the rejection is moot.

Claims 1, 2, 9, and 20 have been rejected under 35 U.S.C. 102(b) as being anticipated by any one of U.S. Patent 2,286,999 (Smith), U.S. Patent 5,384,147 (Hilpert), GB Patent 1,543,512 (Liot), U.S. Patent 1,980,695 (Polk), U.S. Patent 5,006,354 (Rahrooh et al.), or U.S. Patent 2,076,459 (Hanson).

Claims 1, 2, 9, and 20 have been rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,231,907 (Kino et al.)

Claims 3-6 have been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 2,286,999 (Smith) in view of U.S. Patent 1,980,417 (Malmquist). Claim 24 has

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been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 2,286,999 (Smith) in view of U.S. Patent 1,980,417 (Malmquist) and further in view of U.S. Patent 5,543,163 (Groves).

Claims 1-25 stand canceled and thus it is submitted that all of the noted rejections are moot.

Applicants have chosen to add new claims 26-30. No new matter is contained therein. These claims differ from the originally presented claims in that they specifically recite that the gas removal process is carried out with the liquid element in a container inside of the vacuum packer, where the container is larger than the volume of the liquid element so as to contain spraying, and wherein no heat is applied to the liquid element during the packing process. The prior art of record is not believed to disclose or suggest these new claims. In particular, none of the cited references teach degassing a liquid portion prior to vacuum packing by placing a container of a specified volume relative to the liquid foodstuff element into a vacuum packer, deaerating the liquid element, combining the liquid and solid elements of the foodstuff in the vacuum packer, and then vacuum packing, where no heat is applied in the packing process used.

The Examiner has stated that Applicant's claimed batch process would have been obvious. Applicant respectfully disagrees. While the general concept of moving containers into and out of a vacuum packer may be known, the prior art of record does not teach the sequential steps of Applicant's process, and in particular the step of performing the preliminary degassing within a vacuum packer by holding the liquid element in a container of sufficient size to prevent spraying. Applicant's process allows the degassing to take place in the vacuum packer without spraying into the vacuum packer cavity, which would require cleaning of the vacuum chamber before any subsequent vacuum packing procedure. This is done by providing a container of sufficient excess volume to contain any

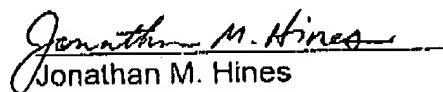
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spraying, as recited in the claims.

The Examiner has stated that the container volume is obvious, because it is a function of the liquid to be added. To the contrary, there is no prior art motivation to provide a degassing container having excess volume capacity over that of the volume of liquid which is being degassed, because the prior art does not teach degassing by placing a separate container into the cavity of a vacuum packer. The cited prior art uses fixed, separate hardware for the degassing and vacuum packing processes, for example the de-aerator (2) of Smith, the separator (28) of Polk, and the vacuum chamber (18) of Hilpert. That is, the degassing step is carried out in a dedicated piece of equipment comprising a closed container or housing whose interior is exposed to the material being degassed, which is separate from the vacuum packer. Thus the prior art does not recognize the problem of the liquid spraying inside the vacuum packer.

In view of the above, it is submitted that the claims are in condition for allowance. Reconsideration of the objections and rejections is requested. Allowance of claims 26-30 at an early date is solicited.

Respectfully submitted,


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